

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ISIDRO ROBERTO CHAVEZ,

Plaintiff,

v.

No. CV 16-1189 CG

NANCY A. BERRYHILL,
Acting Commissioner of the Social
Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES PURSUANT TO
THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

THIS MATTER is before the Court on Plaintiff's *Opposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, With Memorandum in Support*, (Doc. 24), filed January 22, 2018, in which Plaintiff requests an award of attorney fees in the amount of \$6,073.46. On February 2, 2018, the Commissioner filed a *Stipulation for Award of Attorney Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412*, (Doc. 25), stating that the parties have agreed to an award of \$5,450.00 in attorney fees. Having considered the motion, the stipulation, and the relevant law, the Court finds that Plaintiff's motion should be **GRANTED in part**.

IT IS THEREFORE ORDERED that Plaintiff's *Opposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, With Memorandum in Support*, (Doc. 24), be **GRANTED in part**, and that attorney fees in the amount of \$5,450.00 be awarded to Plaintiff pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See *Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (providing EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE